

REMARKS**I. Status of the Claims**

Claims 38 – 109 are pending in the present application. No amendments to the claims are made at this time.

II. Response to Restriction

Applicants reserve the right to prosecute the subject matter of the non-elected group in a divisional application.

In response to the outstanding Restriction Requirement from the Office Communication dated June 1, 2006, Applicants hereby elect Group I, inclusive of claims 38 – 72 and elect the species of (a) which is directed to administering extract as a pharmaceutical composition (e.g. tablet, powder, capsule, liquid, suspension, granule or syrup) with traverse, wherein claim 63 is directed to the elected species.

Regarding the traversal, the Examiner has requested the Applicants to elect a specific species listed from (a) to (c) if Group I is elected at page 5 of the Office Communication. Applicants have elected species (a) with traverse. It is believed that the species recited by the Examiner are not patentably distinct. The Examiner has alleged that species (a) to (c) are patentably distinct, but has made no specific showing. Rather, the Examiner just concludes that species (a) to (c) are patentably distinct. It is noted, however, that the recited species are not believed to be patentably distinct, because it would be obvious to a person skilled in the art that the administration of the active ingredient using various forms of the composition such as in a pharmaceutical composition, a health food additive and/or in a cosmetic

composition would lead to the same desired effect. This effect being the treatment or prevention of an allergic disease or non-allergic inflammatory disease in a mammal as presently claimed. Accordingly, it is believed that species (a), (b) and (c) of Group I exert the same effect, and therefore are not patentably distinct. In view of the foregoing, Applicants request a withdrawal of the species requirement based on this traversal. If the Examiner maintains this requirement for an election of species, Applicants request that the Examiner sets forth a species which are in fact patentably distinct and supports her allegation with technical reasoning rather than making conclusory statements.

CONCLUSION

Applicants believe that this reply is responsive to the outstanding Restriction Requirement. However, should the Examiner wish to further discuss this application, the Examiner is invited to call the undersigned at the Examiner's earliest convenience.

Respectfully submitted
Attorney for Applicant,

By: 

Eugene Lieberstein
Registration No. 24,645

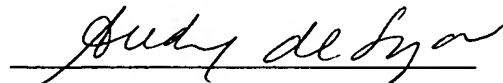
Dated: September 28, 2006

CUSTOMER NO. 01109

ANDERSON KILL & OLICK, P.C.
1251 Avenue of the Americas
New York, New York 10020-1182
(212) 278-1000

CERTIFICATE OF MAILING

I hereby certify that this RESPONSE TO RESTRICTION is being deposited with the United States Postal Service via First Class Mail addressed to: Mail Stop AMENDMENT, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on September 28, 2006.


Audrey de Souza